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SB MARY ELLEN DUNLAP
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SV

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
7 **IN AND FOR THE COUNTY OF COCHISE**

9 **MARY LANE and JAMES LANE,**
10 **wife and husband,**

11 **Plaintiffs,**

12 **vs.**

13 **MCDONALD'S RESTAURANT**
14 **No. 27656, an Illinois corporation;**
15 **PATRICK RICHARDS and LEANNE**
16 **RICHARDS, husband and wife;**
17 **JOHN DOES 1-10; JANE DOES 1-10;**
18 **ABC CORPORATIONS 1-10; XYZ**
19 **PARTNERSHIPS 1-10; and LIMITED**
20 **LIABILITY COMPANIES 1-10,**

21 **Defendants.**

Case No. **CV 201800702**

COMPLAINT
(Negligence, Respondeat Superior,
Loss of Consortium)

DIV. 2

Assigned to:

18 Plaintiffs, MARY LANE and JAMES LANE, wife and husband, by and through
19 undersigned counsel, for their complaint, allege as follows:

20 **PARTIES, VENUE AND JURISDICTION**

21 1. Plaintiffs, MARY LANE and JAMES LANE, wife and husband, are and
22 were at all relevant times, residents of Cochise County, Arizona.

23 2. Upon information and belief, Defendant, McDONALD'S RESTAURANT
24 No. 27656, an Illinois corporation, (hereinafter "Defendant McDonald's"), is and was at
25 all relevant times doing business in Cochise County, Arizona, located at Canyon de Flores
26 & AZ 92, in the City of Sierra Vista.

27 3. Upon information and belief, Defendants PATRICK RICHARDS and
28 LEANNE RICHARDS, (hereinafter "Defendant Richards"), husband and wife, are and
were at all relevant times the owners of the business located at Canyon de Flores & AZ 92,

1 in the City of Sierra Vista, and doing business as "McDONALD'S" in Cochise County,
2 Arizona.

3 4. Defendants, JOHN DOES 1-10, JANE DOES 1-10, ABC CORPORATIONS
4 1-10, XYZ PARTNERSHIPS 1-10, AND LIMITED LIABILITY COMPANIES 1-10, are
5 unknown persons or entities who may have liability in this matter and, when their true
6 identities are learned, will be added into this Complaint by leave of the Court.

7 5. All actions, transactions, omissions, and occurrences complained of herein
8 occurred in Cochise County, Arizona.

9 6. This Court has jurisdiction over this matter and venue is proper in Cochise
10 County.

11 GENERAL ALLEGATIONS

12 7. Paragraphs 1-6 are incorporated and re-alleged as if fully set forth herein.

13 8. At all relevant times, Defendants McDonald's and Riehards conducted
14 business at Canyon de Flores & AZ 92, in the City of Sierra Vista (hereinafter "Subject
15 Property").

16 9. On or about December 14, 2016, Plaintiff Mary Lane suffered severe and
17 permanent injuries resulting from a fall at the Subject Property, and forms the basis of this
18 Complaint.

19 10. On or about December 14, 2016, Plaintiff Mary Lane was a patron at the
20 Subject Property.

21 11. On or about December 14, 2016, an employee of Defendant McDonald's
22 mopped the floor at the entrance to the restrooms.

23 12. On or about December 14, 2016, Plaintiff Mary Lane was exiting the
24 restroom, when she lost her footing on unmarked wet floor causing her to fall backward to
25 the hard floor.

26 13. As a result of the fall, Plaintiff Mary Lane suffered a concussion, a severe
27 scalp laceration to the back of her head, severe pain and discomfort in her neck and back,
28 dizziness and headaches.

14. As a result of the fall, Plaintiff Mary Lane's injury prevents her from being
able to stand, lay down, or sit for long periods of time without severe pain.

3 15. As a result of her injuries, Plaintiff Mary Lane's quality of life is reduced, she
4 is prevented from enjoying the lifestyle and hobbies she enjoyed daily prior to her fall.

5 16. As a result of her injuries, Plaintiff Mary Lane incurred and continues to
6 incur medical bills, and has sustained a loss of quality of life.

COUNT ONE
Negligence

17. Paragraphs 1-16 are incorporated and re-alleged as if fully set forth herein.

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14 18. Defendants McDonald's; Richards; John Does 1-10; Jane Does 1-10; ABC
Corporations 1-10; XYZ Partnerships 1-10; and Limited Liability Companies 1-10
(hereinafter collectively "Defendants") had a duty of care to Plaintiff Mary Lane that
required them to maintain and operate a store in a reasonable safe condition and in
accordance with the standards and practices of its profession and federal and local building
and safety codes.

19. Defendants breached their duty of care by negligently failing to maintain or
cause to be maintained and warn of a wet area, so as to cause said floor to be unreasonably
dangerous to its patrons, namely Plaintiff Mary Lane.

18 20. Defendants breached their duty of care by negligently and carelessly failing
19 to inform Plaintiff Mary Lane of a potential risk due to the hazardous condition existing
20 outside of the restrooms of their store.

21. Defendants' breach of their duty of care was a direct and proximate cause of
22 Plaintiff Mary Lane's injuries and damages.
23

24 22. Plaintiff Mary Lane sustained injuries and damages which occurred as a
25 result of negligent and careless maintenance of the store property that was under
26 Defendants' exclusive control, and in the normal course of events, Plaintiff Mary Lane's
27 injuries and damages would not have occurred but for the negligence of Defendants.

23. As a direct and proximate result of Defendants' negligent actions, Plaintiff Mary Lane suffered injuries to, *inter alia*, her head, neck and back, which have caused ongoing pain and discomfort in an amount to be determined at trial.

24. As a direct and proximate result of Defendants' negligent actions, Plaintiff Mary Lane has suffered and continues to suffer a significant impairment to her enjoyment of life in an amount to be determined at trial.

WHEREFORE, Plaintiff Mary Lane prays the Court enter judgment against Defendants McDonald's; Richards; John Does 1-10; Jane Does 1-10; ABC Corporations 1-10; XYZ Partnerships 1-10; and Limited Liability Companies 1-10, and award Plaintiff Mary Lane,

A. Damages for expenses incurred, as well as expenses likely to be incurred, as a result of the negligence of Defendants, including costs of hospitalization, medications, medical devices, and doctors' bills in an amount to be determined at trial;

B. Damages for past and future pain and suffering in an amount to be determined at trial:

C. Damages for past and future loss of enjoyment of life in an amount to be determined at trial;

D. Damages to compensate Plaintiff Mary Lane for the permanent pain she has suffered and expenses she is likely to incur in having the pain medically and therapeutically addressed;

E. The costs of this suit:

F. Interest upon Plaintiff Mary Lane's damages at the legal rate accruing from the date of judgment until paid; and,

G. Such other relief as the Court deems fair and just.

COUNT TWO
Respondeat Superior

25. Paragraphs 1-24 are incorporated and re-alleged as if fully set forth herein.

1 26. Defendants McDonald's and Richards employed Defendants, JOHN DOES
2 1-10, JANE DOES 1-10, ABC CORPORATIONS 1-10, XYZ PARTNERSHIPS 1-10, and
3 LIMITED LIABILITY COMPANIES 1-10, at the time of the injuries to Plaintiff Mary
4 Lane.

5 27. Defendants, JOHN DOES 1-10, JANE DOES 1-10, ABC CORPORATIONS
6 1-10, XYZ PARTNERSHIPS 1-10, and LIMITED LIABILITY COMPANIES 1-10, were
7 acting in the course and scope of their employment for the benefit of and as the agents of
8 Defendants McDonalds and Richards at the time of the injuries to Plaintiff Mary Lane.

9 28. Defendants McDonald's and Richards are vicariously liable to Plaintiff Mary
10 Lane for the negligent actions of its employees, Defendants JOHN DOES 1-10, JANE
11 DOES 1-10, ABC CORPORATIONS 1-10, XYZ PARTNERSHIPS 1-10, and LIMITED
12 LIABILITY COMPANIES 1-10.

13 **WHEREFORE**, Plaintiff Mary Lane prays the Court enter judgment against
14 Defendants McDonald's and Richards and award Plaintiff Mary Lane,

15 A. Damages for expenses incurred, as well as expenses likely to be incurred, as
16 a result of the Defendants' negligence, including costs of hospitalization, medications,
17 medical devices, and doctors' bills in an amount to be determined at trial;

18 B. Damages for past and future pain and suffering in an amount to be
19 determined at trial;

20 C. Damages for past and future loss of enjoyment of life in an amount to be
21 determined at trial;

22 D. Damages to compensate her for the permanent pain she has suffered and
23 expenses she is likely to incur in having the pain medically and therapeutically addressed;

24 E. The costs of this suit;

25 F. Interest upon her damages at the legal rate accruing from the date of
26 judgment until paid; and,

27 G. Such other relief as the Court deems fair and just.

28

COUNT THREE Loss of Consortium

29. Paragraphs 1 through 28 of the Complaint are hereby incorporated by this reference as though fully set forth herein.

30. By and through the negligence of the Defendants, Plaintiff Mary Lane sustained injuries causing ongoing pain and discomfort.

31. As a direct result of the negligent acts of the Defendants, Plaintiff James Lane has been caused to suffer, and will continue to suffer in the future, loss of marital consortium in the form of, *inter alia*, loss of society, companionship, care and moral support, affection, assistance, all to the determent of their marital relationship.

WHEREFORE, Plaintiff, James Lane, prays the Court enter judgment against Defendants McDonald's, Richards; John Does 1-10; Jane Does 1-10; ABC Corporations 1-10; XYZ Partnerships 1-10; and Limited Liability Companies 1-10, and award Plaintiff James Lane.

- A. Damages for loss of consortium in an amount to be determined at trial;
- B. The costs of this suit in an amount to be determined at trial;
- C. Interest upon his damages at the legal rate accruing from the date of judgment until paid; and,
- D. Such other relief as the Court deems fair and just.

DATED this 12 day of December 2018.

STACHEL & ASSOCIATES, P.C.

Robert D. Stachel, Jr.
Attorney for Plaintiffs